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No. 45

July 12, 2006

## **H.R. 810, S. 2754, S. 3504 – Legislation Related to Stem Cell Research**

### **NOTEWORTHY**

- Under a unanimous consent agreement reached on June 29, the Senate will consider en bloc three bills related to stem cell research with no amendments in order and 12 hours of debate on the bills, equally divided. Following the use or yielding back of time, the Senate will immediately proceed to votes on passage of the three bills, without intervening action. The votes will occur in the following order: S. 3504, S. 2754, and H.R. 810.
- The unanimous consent agreement also provides that any vote that does not result in 60 votes in favor of passage will be vitiated.
- Today, the Majority Leader announced that debate will begin on Monday, July 17, and will conclude the following day.
- The terms of the consent agreement also state that, following the three votes, it shall not be in order for the Senate to consider any other bill or amendment relating to stem cell research during the remainder of the 109<sup>th</sup> Congress.
- The President has indicated that he would veto H.R. 810. The House passed H.R. 810 on May 24, 2005 by a vote of 238 to 194. It comes before the Senate unamended by any Senate committee (Senate Calendar No. 119).
- S. 2754 and S. 3504 were both introduced by Senator Santorum and are currently pending before the Senate Committee on Health, Education, Labor, and Pensions (HELP). They will be discharged from the committee prior to floor consideration.

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## **Background**

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The Bush Administration was the first to allow federal funding for embryonic stem cell research. For FY 2004, the National Institutes of Health (NIH) received \$24.3 million in federal funding to conduct human embryonic stem cell research on stem cell lines in existence as of August 9, 2001. In 2004, NIH also received \$203.2 million in federal funding for human non-embryonic stem cell research – this research involves adult stem cells, including those from cord blood, placenta, and bone marrow. In addition to the funds noted above, NIH received \$325 million in federal funds for non-human stem cell research. The Bush Administration encourages pursuit of alternative methods of stem cell research, but believes that taxpayer dollars should not promote research that, in its view, destroys human life. For more information about stem cell research, please see the Congressional Research Service (CRS) report titled, *Stem Cell Research* (CRS Report RL31015, updated January 11, 2006).

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## **Bill Provisions**

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### **H.R. 810**

H.R. 810, the Stem Cell Research Enhancement Act of 2005, would preempt any existing law or regulation prohibiting stem cell research, instead requiring that the Secretary of Health and Human Services (HHS) conduct and support research using human embryonic stem cells, regardless of the date on which the stem cells were derived from a human embryo. This directly contradicts the President's stated policy on stem cell research.

The bill also provides "ethical requirements" for stem cells used in the research conducted by the Secretary. These requirements state that, to be eligible for use in research, stem cells must be derived from human embryos created for or in the course of in vitro fertility treatments that the treated individuals no longer needed and, as such, have donated to the in vitro clinic. Further requirements include that the donating individual understands that the embryo will otherwise be discarded, and that the clinic obtain the individual's written informed consent without providing any incentive, financial or otherwise.

The Secretary, in consultation with the Director of NIH, is required to issue final regulations implementing the provisions of the bill within 60 days after the date of enactment. Each year after enactment, the Secretary is required to prepare and submit to the appropriate congressional committees a report detailing the research conducted in accordance with this bill during the previous fiscal year.

H.R. 810 passed the House on May 24, 2005, by a vote of 238 to 194. The bill was not considered in any Senate committee, but was placed directly on the Senate Calendar on June 6, 2005. An identical bill, S. 471, sponsored by Senator Specter, is pending in the Senate HELP Committee.

### **S. 2754**

S. 2754, the Alternative Pluripotent Stem Cell Therapies Enhancement Act, would direct the Secretary of HHS to conduct and support basic and applied research to develop alternative techniques for the isolation, derivation, production, or testing of pluripotent stem cells. Pluripotent stem cells are those that, like embryonic stem cells, are capable of producing all or almost all of the cell types of the developing body. However, research authorized under this bill could not derive such cells from a human embryo, but is intended to encourage the derivation of pluripotent cells from alternative sources or techniques.

The bill also mandates that the Secretary issue guidelines for the implementation of the bill not later than 90 days after its enactment. These guidelines are meant to outline “next steps” for additional stem cell research, prioritize research with the greatest potential for near-term benefit, and take into account techniques outlined by the President’s Council on Bioethics (and other appropriate techniques and research that are in keeping with the provisions outlined above). Further requirements include an annual report to Congress, in which the Secretary describes activities carried out under the provisions of this bill, including a description of research conducted. The funding is authorized for three years.

S. 2754 was introduced in the Senate on May 5, 2006 by Senators Santorum and Specter and was referred to the Senate HELP Committee where it is currently pending. (Note that the unanimous consent agreement requires that this bill be discharged by the committee so that it may be considered on the floor next week.)

### **S. 3504**

S. 3504, the Fetus Farming Prohibition Act of 2006, would prohibit the solicitation or acceptance of tissue from human fetuses gestated for research purposes.

Specifically, the bill amends current law on fetal tissue research to prohibit any person or entity from soliciting or knowingly acquiring, receiving, or accepting a donation of human fetal tissue knowing that a human pregnancy was deliberately initiated to provide such tissue. The bill would also prohibit knowingly acquiring, receiving, or accepting tissue or cells obtained from a human embryo or fetus that was gestated in the uterus of a nonhuman animal.

S. 3504 was introduced in the Senate on June 13, 2006 by Senators Santorum and Brownback and was referred to the Senate HELP Committee where it is currently pending. (Note that the unanimous consent agreement requires that this bill be discharged by the committee so that it may be considered on the floor next week.)

## **Cost**

The Congressional Budget Office (CBO) has not provided an estimate for any of the bills described in this notice.

## **Administration Position**

A Statement of Administration Policy (SAP) was issued for H.R. 810 on May 24, 2005, when the House began its consideration of the bill. (The bill was passed without amendment.) The SAP reads as follows:

The Administration strongly opposes House passage of H.R. 810, which would require Federal taxpayer dollars to be used to encourage the ongoing destruction of nascent human life. The bill would compel all American taxpayers to pay for research that relies on the intentional destruction of human embryos for the derivation of stem cells, overturning the President's policy that supports research without promoting such ongoing destruction. If H.R. 810 were presented to the President, he would veto the bill.

The President strongly supports medical research, and worked with Congress to dramatically increase resources for the National Institutes of Health. However, this bill would support and encourage a line of research that requires the intentional destruction of living human embryos for the derivation of their cells. Destroying nascent human life for research raises serious ethical problems, and many millions of Americans consider the practice immoral.

The Administration believes that government has a duty to use the people's money responsibly, both supporting important public purposes and respecting moral boundaries. Every year since 1995, Congress has, on a bipartisan basis, upheld this balance by prohibiting Federal funds for research in which an embryo is destroyed. Consistent with this provision, the President's policy permits the funding of research using embryonic cell lines created prior to August 9, 2001, along with stem cell research using other kinds of cell lines. Scientists can therefore explore the potential application of such cells, but the Federal government does not offer incentives or encouragement for the destruction of nascent human life.

H.R. 810 seeks to replace that policy with one that offers very little additional practical support to the research, while using Federal dollars to offer a prospective incentive for the destruction of human embryos. Moreover, H.R. 810 relies on unsupported scientific assertions to promote morally troubling and socially controversial research. Embryonic stem cell research is at an early stage of basic science, and has never yielded a therapeutic application in humans. It is too early to say if a treatment or a cure will develop from embryonic stem cell research.

The Administration believes that the availability of alternative sources of stem cells further counters the case for compelling the American taxpayer to encourage the ongoing destruction of human embryos for research. Researchers are continually exploring alternative ways to derive pluripotent stem cells. And alternative types of human stem cells – drawn from adults, children, and umbilical-cord blood without doing harm to the donors – have already achieved therapeutic results in thousands of patients with dozens of different diseases.

Moreover, private sector support and public funding by several States for this line of research, which will add up to several billion dollars in the coming few years, argues against any urgent need for an additional infusion of Federal funds which, even if completely unrestricted, would not approach such figures. Whatever one's view of the ethical issues or the state of the research, the future of this field does not require a policy of Federal subsidies offensive to the moral principles of millions of Americans.

H.R. 810 advances the proposition that the Nation must choose between science and ethics. The Administration, however, believes it is possible to advance scientific research without violating ethical principles: both by enacting the appropriate policy safeguards and by pursuing the appropriate scientific techniques. H.R. 810 is seriously flawed legislation that would undo those safeguards and provide a disincentive to pursuing those techniques.

An updated SAP is expected to be released prior to the bills' consideration on the Senate floor.

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### **Possible Amendments**

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Under the unanimous consent agreement, no amendments to any of the three bills will be in order.